

From the beginning of the Coutts/Milk River protest, we have been receiving questions and complaints from our residents about the check stops/roadblocks, the requirements of drivers at these stops, and the conduct of the officers. To help answer some of these questions and provide explanations and information to our residents, we would appreciate answers to the following questions.

Questions for RCMP

Your = RCMP or any other law enforcement agency currently operating in the Coutts / Milk River area.

1. What is your legal authority to set up check stops on all roads leading in or out of Coutts and on all side roads between Coutts and Milk River? I'd have to do some more research, but look below.

The term checkstop is often misinterpreted. Checkstops are designed to apprehend and deter impaired drivers. If stops have been set up on all roads, they are likely not to detect impaired drivers and probably fall under common law authority for police to protect the public by detecting and preventing crime. This will be a question best answered by DEOC / Site Command.

[R. v. Ladouceur - SCC Cases \(lexum.com\)](#) speaks to the police "random, routine traffic stops"

Further information on the Checkstop Program can be found here: [Checkstop program | Alberta.ca](#)

2. What is the purpose of the check stops? I would have to do some specific research but actual checkstops have case law that allows law enforcement to set up check stops for the purpose of impaired driving enforcement. During that stop we can check for licence, registration, and sobriety. We cannot 'fish' for anything else unless the offence is obvious. There are other checkstops that can be established for the purpose of public safety (ie: escaped prisoner, Amber Alert), and these are focused in area, and duration with an ongoing assessment of their value, disruption to the public, and actual effectiveness. We are not allowed to 'just' set up a check stop to randomly check people.

As mentioned above Checkstops allows police to stop vehicles to detect impaired drivers. They can be overt (highly visible) or covert, static, or moving.

3. Are the check stops considered detentions? While a checkstop may be considered arbitrary with respect to section 9 of the Charter, the SCC has ruled checkstops to be legal because the reason behind checkstops (as described above) far outweigh the right to not be arbitrarily detained. This may be further bolstered by the fact that the duration of most of the detentions are quite short. Since the introduction of Mandatory Alcohol Screening (MAS), the stop may be less than a minute.
4. What information is the driver legally required to produce to the officer? Name, Driver's License, Registration? The short answer is it depends why they are being stopped, but generally

it is licence, registration, and insurance. Specific to larger trucks/commercial vehicles there are other documents that drivers must produce upon demand, but those are dependent upon the load, destination, departure point, etc...and the documents could include log books, bill of lading, specialized training certificates, fuel permits, transport permits, oversize permits...etc...

Section 167(1) TSA requires the driver of a vehicle to produce D/L, registration, insurance. CVE Sheriffs embedded at DEOC should be able to better speak to log books, etc.

https://www.canlii.org/en/ab/laws/stat/rsa-2000-c-t-6/latest/rsa-2000-c-t-6.html#Division_3_Peace_Officers_541871

5. What is your legal authority to take a picture of the driver's license presented by the driver?
Bear in mind there is nothing prohibiting the member from capturing this information on the ICDVS, simply by putting the document, if obtained lawfully, in front of the camera. If that footage is not used in an investigation, it must be kept for two years and then deleted. If footage has been copied and placed on an investigative file, it should be destroyed in accordance with retention rules that apply to that file.
6. For what purpose are these photos being taken? As per previous should not be done. If we have grounds to arrest, do that and then photograph them as per the Identification of Criminals Act. The other thing is that surveillance photos can be taken (public venue) and then talk to the officers to marry up names with photos.

This question is best answered by DEOC / GSB Command

7. Where is this information (license photos) being stored and for how long? As per previous unless it is in an approved holding cannot do it.

As above.

8. What is your legal authority to restrict any vehicle from entering the Coutts area?
Under common law, police have a common law duty to preserve peace, prevent crime, and protect life and property. There is also a power to control access to certain areas including establishing a perimeter to protect:
 - An officer affecting an arrest
 - An officer questioning a witness or suspect
 - Protecting a crime scene to preserve evidence
 - A hazardous area to preserve public safety such as those created by fires, floods, or collisions
 - A potential target of violent crime to ensure the targets protectionThe perimeter may not be used against a protestors common law right to travel unimpeded on a public highway.

The justification of police conduct depends on:

- The duty being performed
- The extent to which interference of liberty is necessary to perform duty
- Importance of the duty to the public good
- The liberty interfered with
- Nature and extent of the interference

http://criminalnotebook.ca/index.php/Ancillary_Powers_Doctrine

Section 166(1) TSA allows peace officers a peace officer **while enforcing the TSA or bylaw** to stop a vehicle and request information for driver and passenger. With respect to a pedestrian using or located on highway request information from that pedestrian.

- When signalled to stop by a peace officer the driver must bring the vehicle to a stop, furnish any information respecting the driver or vehicle, remain stopped until permitted to leave

https://www.canlii.org/en/ab/laws/stat/rsa-2000-c-t-6/latest/rsa-2000-c-t-6.html#Division_3_Peace_Officers_541871

Sec. 129 CC Obstruction of a police officer in the execution of their duty may have an application here depending on the situation.

Sec. 21 CC Party to an offence, in particular aiding and abetting may have an application here, once again depending on the situation.

9. What is your legal authority to restrict anyone from travelling into the Coutts area? As per previous

See above

10. What criteria are you are using to determine who is allowed to enter the Coutts area? That is for CIP and DEOC to come up with.

DEOC / GSB

11. What is your legal authority to restrict entry family or friends of the residents of Coutts?
Common law as described above may apply, but depends on articulation.

12. What is your legal authority to ask questions about the contents of their vehicle
If the stop is for a bona fide traffic stop, see #4. Additionally, the police can ask whatever they wish, but there may not be a requirement for the road user to answer. Need to also be alive to psychological detention vs physical detention.

13. What is your legal authority to restrict anyone from bringing in supplies for other persons in the Coutts area? I'm not sure about this one.

DEOC / GSB

14. Why is the Purolator package truck being stopped from coming to Coutts?

DEOC / GSB

15. Why would homecare health providers be stopped from coming to Coutts? DEOC / GSB

16. How do persons register complaints with the RCMP if they feel their rights have been violated or if they have a complaint about the treatment, they received at one of these check stops?

Normally, complaints can be lodged locally or with the NPCD. This case is unique in that members are there from all around the Province. It may make sense for there to be a central intake for any complaints arising against our members while at Coutts. Should there be coordination with NPCD in case complaints go directly to them?

We are having a Village Council meeting on Tuesday, February 8th, starting at 7:00 p.m., at the Coutts Civic Centre. If it is possible to have an RCMP representative come to that meeting, to provide information and answer questions, that would be very helpful.